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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,650	03/14/2001	Jeffrey L. Peyton	A-69185/MSS	4939

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EXAMINER

OUELLETTE, JONATHAN P

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 07/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/808,650

Applicant(s)

PEYTON, JEFFREY L.

Examiner

Jonathan Ouellette

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 6/2/2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-13,15-18 and 20-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-13,15-18 and 20-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. Claims 2, 4, 14, and 19 have been cancelled; therefore Claims 1, 3, 5-13, 15-18, and 20-23 are now pending in application 09/808,650.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 1, 3, 5, 7-8, 12-13, 15-18, and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Enchanted Learning ([www.enchantedlearning.com](http://www.enchantedlearning.com)) in view of McMenimen et al. (US 6,514,079).
4. As per Claims 1, 3-5, 7, 15, 16 and 23, Enchanted Learning discloses a puppetry based communication method (business method, system, a computer readable medium), comprising the steps of: providing one or more images in a computer environment, downloading selected of said one or more images to provide said images in paper form (printing); forming said paper form to create a puppet representative of said image; a hinge attached or integrated to said paper form, said hinge being adapted for hand

manipulation to create a hand actuated puppet representative of said one or more images (www.enchantedlearning.com).

5. Enchanted Learning Fails to disclose interacting with an on-line training laboratory on the puppet site, the training laboratory comprising a plurality of developmental segments having multimedia audio and video files to facilitate learning and communication in connection with play with the puppet.
6. McMenimen teaches interacting with an on-line (C5 L3-6) training laboratory, the training laboratory comprising a plurality of developmental segments having multimedia audio and video files to facilitate learning and communication in connection with performance of an occupational skill (Abstract, C1 L62-67, C2 L51-63, C3 L6-14, C4 L1-23, C4 L45-49).
7. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have interacting with an on-line training laboratory on the puppet site, the training laboratory comprising a plurality of developmental segments having multimedia audio and video files to facilitate learning and communication in connection with play with the puppet, as disclosed by McMenimen in the system disclosed by Enchanted Learning, for the advantage of providing a puppetry based communication method that can offer better customer service/fulfillment by training the users on how to properly use the puppets that are downloaded from the system.
8. As per Claim 8, Enchanted Learning further discloses wherein at least one of the images are provided by content providers (www.enchantedlearning.com).

9. As per Claim 12, Enchanted Learning further discloses organizing said one or more images into topic areas ([www.enchantedlearning.com](http://www.enchantedlearning.com)).
10. As per Claim 13, Enchanted Learning further discloses wherein said topic areas are selected from any one of the following: educational, training, medical, social awareness, business and entertainment ([www.enchantedlearning.com](http://www.enchantedlearning.com)).
11. As per Claim 17, Enchanted Learning further discloses wherein said hinge is formed within the image ([www.enchantedlearning.com](http://www.enchantedlearning.com)).
12. As per Claim 18, Enchanted Learning further discloses wherein said hinge is affixed to the image ([www.enchantedlearning.com](http://www.enchantedlearning.com)).
13. As per Claim 20, Enchanted Learning further discloses wherein the computer network is the Internet ([www.enchantedlearning.com](http://www.enchantedlearning.com)).
14. As per Claim 21, Enchanted Learning further discloses an Internet server connected to the puppet site computer and the computer network ([www.enchantedlearning.com](http://www.enchantedlearning.com)).
15. As per Claim 22, Enchanted Learning further discloses a file server including at least an image database and a user information database ([www.enchantedlearning.com](http://www.enchantedlearning.com)).
16. Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Enchanted Learning, in view of McMenimen, and further in view of Katz (US 5,009,626).
17. As per Claims 6 and 11, both Enchanted Learning and McMenimen fail to disclose manipulating said one or more images in the computer environment to create a personalized image.

18. Katz teaches manipulating said one or more images in the computer environment to create a personalized image (Abstract Fig.1).
19. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included manipulating said one or more images in the computer environment to create a personalized image, as disclosed by Katz in the system disclosed by McMenimen, in the system disclosed by Enchanted Learning, for the advantage of providing a puppetry based communication method that can offer better customer selection by providing the ability to personalize the puppets to be downloaded.
20. Claims 9 and 10 are rejected under 35 U.S.C. 103 as being unpatentable over Enchanted Learning in view of McMenimen.
21. As per Claim 9, Neither Enchanted Learning nor McMenimen expressly show wherein the one or more remote site users are selected from the group of: children, students, teachers, parents, employees, employers, patients, and any combination thereof.
22. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The puppetry based communication business method would be performed regardless of who the remote site user is. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).
23. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have presented the method to all types of remote site users, because such data does not functionally relate to the steps in the method claimed and

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because the subjective interpretation of the remote site user does not patentably distinguish the claimed invention.

24. As per Claim 10, Enchanted Learning nor McMenimen expressly show wherein the one or more remote site users are located at any one of a home, classroom, workshop, childcare center, business, hospital or training center.

25. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The puppetry based communication business method would be performed regardless of where the remote site user is located. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

26. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have presented the method to remote site users at all types of locations, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the remote site user location does not patentably distinguish the claimed invention.

### ***Response to Arguments***

27. Applicant's arguments filed 6/2/03, with respect to Claims 1, 3, 5-13, 15-18, and 20-23, have been considered but are moot in view of the new ground(s) of rejection.

28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

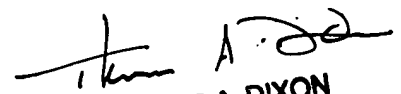
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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

29. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

*Conclusion*

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (703) 605-0662. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
31. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-3597 for After Final communications.
32. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5484.

  
THOMAS A. DIXON  
PRIMARY EXAMINER